

**Proposals by the National Milk Producers Federation
And the International Dairy Foods Association
To Amend Federal Milk Marketing Orders to Expand the Size Limit
For Exempt Handlers and Delete the Producer-Handler Provision**

The National Milk Producers Federation (NMPF) represents dairy farmer cooperatives whose members are three-fifths of the nation's 60,000 commercial dairy farmers and a similar share of U.S. production. In January, NMPF and the International Dairy Foods Association jointly submitted 2 proposals: to eliminate the producer-handler provision, and to expand and qualify the size-based exempt plant provision, in every Federal milk marketing order. These two proposals will more fairly exempt small businesses, and end an unjustified loophole for larger ones. NMPF submitted an additional proposal on March 16, to exempt existing producer-handlers up to 3 million pounds. I will speak to this additional proposal after Dr. Yonkers and I have answered the panel's questions about our joint proposals.

Regarding the elimination of the Producer-Handler provisions:

The special status of producer-handlers was intended avoid the regulation of the small farms that often bottled their own milk in the 1930's. Today, this provision is causing disorderly marketing due to its exploitation by very large producer-handlers, who compete explicitly on the basis of the pricing advantage that their special status gives them. This advantage is up to 15¢ per gallon, enough to affect competitive marketing in a Federal order market. This exploitation of a small business provision by large businesses hurts, more than anyone else, the many small producers who serve Federal order markets without the scale to exploit this provision themselves. We also believe that the organization of a string of medium-sized producer-handlers could similarly disorder marketing.

Our proposal completely eliminates the producer-handler provisions, which would require producer-handler plants to either qualify as exempt plants or to become fully- or partially-regulated distributing plants, as appropriate, and participate in the Federal order pools.

Data we have requested from USDA will help define the scale and nature of this problem.

Regarding the definition of the size-based plant exemption:

Today, any plant with less than 150,000 pounds in monthly Class I sales is exempt from Federal order regulation. Given the growth in average farm size, and the growing economies of size in milk processing, it is reasonable to increase this limit.

Our proposal would expand the current exemption for small plants to a total of 450,000 pounds of Class I sales per month. This would exempt 30 to 35 plants that are now regulated or partially regulated, as well as all but the 10 to 15 largest current producer-handlers, based on USDA data. Plants this small cannot and do not compete with large modern plants on price alone, with or without the pricing advantage offered by producer-handler status.

This proposal would also require that the plant sell only uniquely branded milk in order to maintain its exemption. That is, they could sell only brands that are uniquely associated with their own operation. This is intended, prospectively, to preempt a business model, for example, in which an integrator sells milk from to large customers sells low-priced milk

We have proposed this concurrently with our proposal to eliminate the producer-handler provisions. The principle of raising the limit is sound, but the coincidence of the two should help mitigate the regulatory impact of eliminating the producer-handler provisions.

- Statement by Roger Cryan, March 20, 2009

**Additional Proposal by the National Milk Producers Federation
To Amend Federal Milk Marketing Orders
To Provide a Qualified Exemption for Current Producer-Handlers**

Discussion of our previous proposal to eliminate the producer-handler provisions led to concerns that their impact on certain existing small businesses would outweigh their benefits to the market.

So, just as NMPF concluded that there is good reason to expand the current exemption for small plants, there is also good reason not to fully regulate existing smaller producer-handlers whose impact on the market is limited and for whom such regulation may be an unbearable burden.

Our additional proposal would allow plants operated by producer-handlers in 2008 to be defined as exempt plants, provided that they met many of the same requirements that they now meet to maintain producer-handler status, and that they limit Class I sales to less than 3 million pounds of uniquely branded milk.

This remains consistent with our earlier petition, which NMPF continues to support in full. The dual objectives of that petition are 1) to limit the disruptive impact of large existing producer-handlers and 2) prevent the disruptive impact of a proliferation of new middle-sized producer-handlers. Allowing existing producer-handlers to maintain an exemption up to 3 million pounds per month will allow these objectives to be achieved without undue regulatory impact on these smaller existing operations.

- Statement by Roger Cryan, March 20, 2009